

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal No. 14-922 JB

GERALD ARCHULETA,

Defendant.

UNOPPOSED MOTION TO CONTINUE JANUARY 27, 2015 SENTENCING HEARING

Defendant, GERALD ARCHULETA, by and through his attorney, Todd Hotchkiss, hereby moves this Court, without opposition from opposing counsel, to enter an order continuing the January 27, 2015 sentencing hearing for approximately two weeks.

As grounds, counsel states as follows:

1. Sentencing is presently set for January 27, 2015. (Doc.61)
This is the first sentencing date for MR. ARCHULETA.

2. MR. ARCHULETA on October 24, 2014 pleaded guilty to counts 1-5 of the indictment to conspiracy to commit mail fraud and separate counts of mail fraud in violation of 18 U.S.C. §§ 1349 and 1341. The plea agreement was pursuant to Fed. R. Crim. P. 11(c)(1)(C) to a sentencing range of 87-108 months and restitution in the amount of \$734,123.73.

3. MR. ARCHULETA has been released on conditions of release on May 9, 2014 (Doc.27), and remains released pending sentencing. MR. ARCHULETA lives with his common-law wife and their son in Ojo Caliente, New Mexico. Counsel is not aware of any alleged violations of his conditions of release. Opposing counsel has agreed that MR. ARCHULETA be allowed to voluntarily surrender at the Bureau of Prisons designated facility after sentencing.

4. MR. ARCHULETA pleaded guilty on October 24, 2014, and the presentence report (PSR) interview occurred on November 5, 2014. The PSR was disclosed and released to counsel on January 9, 2015, just 18 days before the sentencing date. Counsel mailed a copy of the PSR to MR. ARCHULETA, and has attempted to make arrangements with MR. ARCHULETA to go over the PSR with him. Counsel made an appointment for January 16, 2015 and had to reschedule for 8:00 a.m. on Monday, January 19, 2015, otherwise a holiday, and MR. ARCHULETA showed up with the flu. Counsel told MR. ARCHULETA to go home, and counsel and MR. ARCHULETA spoke over the telephone on January 20, 2015 and discussed the PSR. Counsel and MR. ARCHULETA have made good-faith efforts to attempt to proceed on January 27, 2015.

5. Counsel requests that MR. ARCHULETA and he have the 35 days otherwise required prior to sentencing to consider and respond to the PSR, which will not occur prior to the present January 27, 2015 sentencing date without continuing the sentencing date. Counsel

needs some additional time to review the PSR with MR. ARCHULETA, to submit informal objections to the PSR based on counsel's knowledge, and to finalize the sentencing memorandum counsel has already begun to draft. Plus, counsel may need to prepare and file formal objections. Counsel also needs additional time to make arrangements to review those documents with MR. ARCHULETA. Therefore, counsel needs additional time to review the PSR, the objections, and the response to the objections, prepare formal objections, finalize the sentencing memorandum, and prepare for sentencing.

6. Therefore, for the foregoing reasons, good cause exists for this request for a continuance of the January 27, 2015 sentencing date for approximately least two weeks. For purposes of considering rescheduling the matter, Assistant United States Attorney Tara Neda has communicated that she is unavailable on February 6 and 9, 2015 and will be unavailable from February 17-18, 2015. Also, Ms. Neda and undersigned counsel are set to proceed to trial on a trailing docket beginning February 23, 2015 in the matter of United States of America v. Matthew and Brandi Channon, United States District Court for the District of New Mexico Criminal No. 13-966 JH, a trial which is estimated to last two weeks.

7. Opposing counsel, AUSA Neda, on January 20, 2015 did not oppose this motion.

WHEREFORE, Defendant, GERALD ARCHULETA, respectfully requests

this Court to grant this motion and enter an order continuing the January 27, 2015 sentencing hearing to a later date approximately two weeks after January 27, 2015.

Respectfully submitted,

/s/ Todd Hotchkiss

TODD HOTCHKISS

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CERTIFICATE OF SERVICE

I, Todd Hotchkiss, hereby certify that on January 21, 2015 I electronically filed the foregoing motion through the CM/ECF system and that through that system opposing counsel Assistant United States Attorney Tara Neda will be served with a true and accurate copy.

/s/ Todd Hotchkiss

TODD HOTCHKISS